

CHAPTER EIGHT
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8.0101 **Licenses**

Unless otherwise specifically provided, licenses and permits required for the carrying on of a business or trade within the City shall be applied for, issued, terminated and revoked according to the provisions of this article.

8.0102 **Licenses – Application**

Any person desiring a license or permit under any ordinance of the City shall make a written application to the City upon application blanks furnished by the city auditor and shall file the same with the city auditor, stating the purpose for which the license or permit is desired, for what length of time, the place where his business is to be carried on; if required to file a bond before being licensed he shall also name his proposed sureties on his bond in his application.

8.0103 **Licenses- Granting***

The city auditor shall receive applications for licenses and permits and grant the same in all cases where expressly authorized upon the terms and conditions specified by ordinance. If the city auditor shall not feel authorized to grant any particular application for license or permit for any purpose not named by ordinance, the city auditor shall report such application to the next meeting of the governing body for their action thereon.

8.0104 **License- Terms**

1. No license or permit shall be granted for a longer period than one (1) year.
2. All yearly licenses or permits shall commence on the first day of January in each year and expire on the last day of December in each year. All semi- annual licenses or permits shall commence on the first day of January and the first day of July and expire on the last day of June and the last day of December respectively.
3. No license or permit shall be valid until signed and sealed nor shall any persons be deemed licensed until a license shall be duly issued to him.
4. Each license shall be dated the day of issuance thereof; but if the applicant or applicants shall have been acting without a license, the license shall commence with the date business commenced. If the business calls for a yearly license, then a license shall commence on the first day of January in the year for which the license shall be issued.
5. The date of issuance of the license, together with the time of commencing and expiration shall be given in the license and the license record.

8.0105 **Licenses - Not Transferable**

No license or permit shall be assignable or transferable except by permission of the governing board. No person other than the person to whom the license is granted shall be authorized to do business or act under such license or at any other than the place specified therein. The City may grant the continuance of the business licensed to any other portion of the City, such permission to be certified on the license by the city auditor. No license shall authorize any person to act under it at more than one (1) place at the same time, or at any other place than is therein specified. Whoever shall violate any of the provisions of this section shall be

deemed to be acting without a license and shall be subject to the same penalty as prescribed for acting without a license.

8.0106 Licenses - Revocation

All licenses granted shall be subject to ordinances in force **at** the time of issuing thereof or which may be subsequently passed by the city's governing body. Any person who shall violate any provision of this article relating to his/her license may be proceeded against for any fine or penalty imposed thereby, and his license may be revoked or forfeited in the discretion of the governing body or the court before which any action may be brought for the recovery of any fine or penalty.

Where not otherwise provided, any license may be revoked by the governing board at any time for cause. "Cause" shall include, but not be limited to, the following:

1. Violation of the laws of the State of North Dakota or any of the ordinances of the City dealing with or pertaining to the business or trade licensed.
2. The willful making of any false statement as to a material fact in the application for license.
3. Permitting any disorderly or immoral practices upon the premises where the licensee is licensed to carry on the business or trade.
4. The death of a licensee.
5. When the licensee ceases business at the location licensed.

When the license is terminated or revoked for cause, the licensee or those claiming under the licensee, shall not be entitled to any return of any portion of the license fee previously paid to the City.

8.0107 Licenses - Posting of

All licenses and permits issued by the City for the operation of any business establishment, trade or any part of the operation thereof, shall be posted in a conspicuous place in the main business establishment. Where badges representing permits or licenses are issued to be worn by an individual, such licensee shall wear such badge during the normal course of employment for which said badge was issued.

8.0108 Licenses - Short Term

No license, unless otherwise specified, shall be issued for a fractional part of the year, but shall relate back if taken out subsequent to the first day of January of each year.

8.0109 Licenses – Enforcement

All city officials having duties to perform with reference to licensed premises, including all police officers, shall have authority to enter the licensed premises with or without a search warrant to check for violations of ordinances or state laws by the licensee.

(* See Appendix)

8.0201 **Definitions**

For the purpose of this article:

1. "Transient merchant" includes any person, individual, co-partnership or corporation, either as principal or agent, who engages in, does or transacts any temporary or transient business in the City of Wilton or within _____mile of the municipal limits, either in one locality or in traveling from place to place selling goods, wares and merchandise who does not intend to become and does not become a permanent merchant of the City of Wilton and who, for the purpose of carrying on such business, hires, leases, occupies or uses a building, structure, lots, tract, railroad car or motor vehicles for the exhibition and sale of such goods, wares and merchandise. The person, individual, co-partnership or corporation so engaged shall not be relieved from complying with the provisions of this article merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer or by conducting such transient business in connection with, as a part of or in the name of any local dealer, trader, merchant or auctioneer.
2. "Merchandise" shall not include any livestock or agricultural product.

8.0202 **License Required**

It shall be unlawful to do business in the City as a transient merchant without having first secured a license therefore as is herein provided. For the purpose of this article, any merchant engaging or intending to engage in business as a merchant in the City for a period of time not exceeding 100 days shall be considered as a transient merchant, provided peddlers shall not be considered transient merchants.

8.0203 **License Fee**

The license fee to be required of all transient merchants for the transaction of such business within the city, is contemplated in and provided for in and by section 51-04-09, North Dakota Century Code, is hereby fixed at the sum of \$25.00 per day for each and every day during which any such transient merchants shall transact business in the city.

8.0204 **License - Application for**

Applicants for license under this article, whether an individual, co-partnership or corporation, shall file with the city auditor a written sworn application signed by the applicant if an individual, by all partners if a partnership and by the president if a corporation, showing:

1. Applicant's name, present residence, present home address, present business address, and if a corporation, under the laws of what state the same is incorporated;
2. The name, present residence, present home address and present business address of the person or persons having the management or supervision of applicant's business during the time that it is proposed that it will be carried on in the City;
3. The residence, business address and type of business in which applicant has been engaged in the previous two (2) years;

4. The residence, business address and type of business in which the person having management or supervision of applicant's business has been engaged in the previous two (2) years;
5. The place or places in the City, where it is proposed to carry on applicant's business, and the length of time during which it is proposed that said business shall be conducted;
6. The kind of business to be conducted
7. The name and address of the auctioneer, if any, who will conduct the sale;
8. A statement of the nature, character and quality of the goods, wares or merchandise to be sold or offered for sale by applicant in the City, the invoice value and quality of such goods, wares and merchandise, whether the same are proposed to be sold from stock in possession or by sample; at auction, by direct sale or by direct sale and by taking orders for future delivery; where the goods or property proposed to be sold are manufactured or produced, and where such goods or products are located at the time said application is filed.

8.0205 **Bond**

Before any license shall be issued to a transient merchant for engaging in business in the city, the applicant therefore shall file with the City Auditor a bond running to the city in the sum of \$1,000.00 executed by the applicant, as principal, and a responsible surety upon which service of process may be made in the State of North Dakota; said bond not to be revocable nor to terminate prior to passage of two years time after the expiration of the license issued pursuant thereof nor until due notice that the terms of the bond are to be canceled has been given to the City Auditor; said bond to be approved by the City Attorney, conditioned that the said applicant shall comply fully with all of the provisions of the ordinances of the city and the statutes of the State of North Dakota, regulating and concerning the sale of goods, wares, and merchandise and will pay all judgments rendered against said applicant for any violation of said ordinances or statutes, or any of them, together with all judgments and costs that may be recovered against him by any person or persons for damage growing out of any misrepresentation or deception practiced on any person transacting such business with such applicant, whether by their servants, agents, or employees, or any character whatsoever, printed or circulated with reference to the goods, wares and merchandise sold or any part thereof. Action on the bond may be brought in the name of the City to the use of the aggrieved person.

8.0206 **Service of Process**

Before any license as herein provided shall be issued for engaging in business as a transient merchant, as herein defined, in this City, such applicant shall file with the city auditor an instrument nominating and appointing the city auditor his true and lawful agent with full power and authority to acknowledge service or notice of process for and on behalf of the applicant in respect to any matters connected with or arising out of the business transacted under the license and the bond given as required by this article, or for the performance of the conditions of said bond or for any breach thereof, which said instrument shall also contain recitals to the effect that the applicant for said license consents and agrees that service of any notice or process may be made upon said agent, and when so made shall be taken and held to be as valid as if personally served upon the person or persons applying for the license under this article, according to the law of this state or

any other state, and waiving all claim or right of error by reason of such acknowledgement of service or manner of service. Immediately upon service of process upon the city auditor, as herein provided, the city auditor shall send to the licensee at his last known address, by registered mail, a copy of said process.

8.0207 Exhibiting License

The license issued under this article shall be posted conspicuously in the place of business named therein. In the event that such person or persons applying for a license shall desire to do business in more than one place within the City, separate licenses may be issued for each place of business and shall be posted conspicuously in each place of business.

8.0208 Transfer

No license issued to a transient merchant in the City shall be transferred.

8.0209 Enforcement by Police

It shall be the duty of the police officers of the City to examine all places of business and persons in their respective territories subject to the provisions of this article, to determine if this article has been complied with and to enforce the provisions of this article against any person found to be violating the same. The city auditor shall deposit with the chief of police a record of each license number, together with the location within the City of the business licensed thereunder to assist and promote such enforcement.

8.0210 Revocation

1. Any license issued pursuant to this article may be revoked by the City Council, after notice and hearing for any of the following causes:
 - a. Any fraud, misrepresentation or false statement contained in the application for license;
 - b. Any fraud, misrepresentation or false statement made in connection with the selling of goods, wares or merchandise;
 - c. Any violation of this article;
 - d. Conviction of the licensee of any felony or of a misdemeanor involving moral turpitude; or
 - e. Conducting the business licensed under this article in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.
2. Notice of hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of the complaint and the time and place of the hearing. Such notice shall be mailed, postage prepaid, to the licensee at his last known address at least five (5) days prior to the date set for the hearing.

8.0211 **Expiration of License**

All licenses issued under the provisions of this article shall expire at the expiration of the period for which application has been made and prepaid, to be renewable by the city auditor upon application and payment therefore.

8.0301 **Definitions**

The word "person" as used herein shall include the singular and the plural and shall also mean and include any person, firm or corporation, association, club, co-partnership or society or any other organization. The words "hawker" and "peddler" as used herein shall include any person, whether a resident of the City or not. Travelling by foot, wagon, automotive vehicle or any other type of conveyance from place to place, from house to house, or from street to street, carrying, conveying or transporting goods, wares or merchandise, offering and exposing the same for sale, or making sales and delivering articles to purchasers, or who without traveling from place to place, shall sell or offer the same for sale from an automotive vehicle, railroad car or other vehicle or conveyance, and further provided one who solicits as a part of a scheme or design to evade the provisions of this article shall be deemed a hawker or peddler subject to the provisions of this article.

8.0302 **License Required**

It shall be unlawful for any person to engage in the business of hawker or peddler of any merchandise, article or thing without having first secured a license therefore.

8.0303 **Exceptions**

No license shall be required for peddling, vending or marketing farm products raised in the State of North Dakota, fish, vegetables, fruits, nuts, cake, candy, ice cream or other light products or refreshments.

8.0304 **License - Application for**

Applicants for license under this article must file with the city auditor a sworn application in writing, which shall give the following information:

9. Name, age and sex of the applicant;
10. Address (legal and local):
11. A brief description of the nature of the business and the goods to be sold;
12. If employed, the name and address of the employer, together with credentials establishing the exact relationship;
13. The length of time for which the right to do business is desired;
14. If a vehicle is to be used, a description of the same, together with license number: and
15. A statement as to whether or not the applicant has been convicted of any crimes, misdemeanors or violations of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefore.

8.0305 **Fees**

The license fee to be required of all hawkers and peddlers for the transaction of business within the City shall be in the sum of \$25.00 per day for each day or portion of the day which any such hawker or peddler shall transact business in the City,

8.0306 **Exhibition of License**

Hawkers and peddlers are required to exhibit their licenses at the request of any citizens.

8.0307 **Transfer**

No license issued under the provisions of this article shall be transferred or used at any time by any person other than the one to whom it was issued.

8.0308 **Use of Streets**

No hawker or peddler shall have any exclusive right to any location in the public streets nor shall any be permitted to a stationary location nor shall be permitted to operate in any congested area where his/her operations might impede or inconvenience the public. For the purpose of this article, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced.

8.0309 **Enforcement**

It shall be the duty of any police officer of this City to require any person seen hawking or peddling, and who is not known by such officer to be duly licensed, to produce his/her license and to enforce the provisions of this article against any person found to be violating the same.

8.0310 **Revocation**

3. Licenses issued under the provisions of this article may be revoked by the governing body of the city after notice and hearing for any of the following causes:
 - a. Fraud, misrepresentation or false statement contained in the application for license;
 - b. Fraud, misrepresentation or false statement made in the course of carrying on his business
 - c. Any violation of this article;
 - d. Conviction of any crime or misdemeanor involving moral turpitude;
 - e. Conducting the business of hawking or peddling in an unlawful manner or in such a manner as to constitute a breach of peace or constitute a menace to the health, safety or general welfare of the public.
4. Notice of hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of the complaint and the time and place of the hearing. Such notice shall be mailed, postage prepaid, to the licensee at his last known address at least five (5) days prior to the date set for the hearing.

8.0401 **Definitions**

A "runner," "canvasser" or "solicitor" is defined as any individual, whether resident of the City or not, traveling either by foot, wagon, automobile, motor truck or any other type of conveyance, from place to place, from house to house, or from street to street, taking or attempting to take orders for sale of goods, wares and merchandise, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future. The definition shall include any person who, for himself/herself, or for another person, firm or corporation hires, leases, uses or occupies any building, structure, tent, railroad boxcar, boat, hotel room, lodging house, apartment, shop or any other place within the City for the sole purpose of exhibiting samples and taking orders for future delivery.

8.0402 **Exceptions**

No license shall be required hereunder for runners, solicitors or canvassers of regular retailers of goods, wares and merchandise and personal property, but only for those runners, solicitors and canvassers selling directly to the consumer.

8.0403 **Licensed Required**

It shall be unlawful for any person to engage in the business of runners, solicitors and canvassers of any merchandise, article or thing without having first secured a license therefore.

8.0404 **License - Application for**

Applicants for license under this article must file with the city auditor a sworn application in writing, which shall give the following information:

16. Name, age and sex of the applicant:
17. Address (legal and local):
18. A brief description of the nature of the business and the goods to be sold;
19. If employed, the name and address of the employer, together with credentials establishing the exact relationship;
20. The length of time for which the right to do business is desired;
21. If a vehicle is to be used, a description of the same, together with license number: and
22. A statement as to whether or not the applicant has been convicted of any crimes, misdemeanors or violations of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefore.

8.0405 **Fees**

The license fee to be required of all runners, solicitors and canvassers for the transaction of business within the City shall be in the sum of twenty-five dollars (\$25.00) per day for each day or portion of the day which such runner, solicitor or canvasser shall transact business in the City.

8.0406 **Exhibition of License**

Runners, solicitors and canvassers are required to exhibit their licenses at the request of any citizen.

8.0407 **Transfer**

No license issued under the provisions of this article shall be transferred or used at any time by any person other than the one to whom it was issued.

8.0408 **Use of Streets**

No runner, solicitor or canvasser shall have any exclusive right to any location in the public streets nor shall any be permitted a stationary location nor shall be permitted to operate in any congested area where his/her operations might impede or inconvenience the public. For the purpose of this article, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced.

8.0409 **Enforcement**

It shall be the duty of any police officer of this City to require any person seen hawking or peddling, and who is not known by such officer to be duly licensed, to produce his/her license and to enforce the provisions of this article against any person found to be violating the same.

8.0410 **Revocation**

5. Licenses issued under the provisions of this article may be revoked by the governing body of the city after notice and hearing for any of the following causes:
 - a. Fraud, misrepresentation or false statement contained in the application for license;
 - b. Fraud, misrepresentation or false statement made in the course of carrying on his business
 - c. Any violation of this article;
 - d. Conviction of any crime or misdemeanor involving moral turpitude;
 - e. Conducting the business of hawking or peddling in an unlawful manner or in such a manner as to constitute a breach of peace or constitute a menace to the health, safety or general welfare of the public.
6. Notice of hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of the complaint and the time and place of the hearing. Such notice shall be mailed, postage prepaid, to the licensee at his last known address at least five (5) days prior to the date set for the hearing.

8.0501 Solicitation with Invitation Prohibited

The practice of going in and upon private residence or privately owned property in the city by solicitors, peddlers, hawkers, itinerant merchants, transient vendors of merchandise, photographers and magazine and periodical subscription agents, not having been requested or invited to do so by the owner or owners, occupant or occupants of such private residences or private property, for the purpose of soliciting orders for the sale of goods, wares, and merchandise and/or for the purpose of disposing of and/or peddling or hawking the same, and for the purpose of soliciting subscriptions to magazines or periodicals and/or for the purpose of taking photographs is hereby declared to be a nuisance and unlawful.

8.0502 Enforcement

The Chief of Police and all police officers in the city are hereby required and directed to suppress the same and to abate any such nuisance as described in 8.0501.

8.0601 **Definitions**

For the purpose of this article:

1. "Alcoholic Beverages" shall mean any liquid suitable for drinking by human beings, which contains one-half of the one percent or more if alcohol by volume.
2. "Beer shall mean any malt beverage containing more than one-half if one percent of alcohol by volume.
3. "Licensee" shall mean any person, firm, corporation, association, or club which shall have secured a license pursuant to provisions of this chapter or their agent or employee.
4. "Liquor" shall mean any alcoholic beverage except beer.
5. "Person" shall mean and include any individual, firm, corporation, association, club, co-partnership, society or any organization; and shall include the singular and the plural.
6. "Sale" and "sell" shall mean all manner or means of furnishing alcoholic beverages, including the selling, exchange, barter, disposition of, and keeping for sale of such alcoholic beverages.
7. "Package" and "original package" shall mean and include any container or receptacle containing and alcoholic beverage, which container or receptacle is corked or sealed by the manufacturer thereof and which cork or seal has not been removed or broken prior to the sale of such package to the purchaser.
8. "Club" or "lodge" shall include and corporation or association organized for civic, fraternal, social or business purposes, or the promotion of sports, which has at least 200 members at the time of application for license and which was in existence on November 3, 1936.
9. "Retail sale" shall mean the sale of alcoholic beverages for use or consumption and not for resale.
10. "Off sale" shall mean the sale of alcoholic beverages in original packages for consumption off or away from the premises where sold, and an off-sale license shall authorized the person named therein to conduct such off-sale only at the place designated in such license and not elsewhere, and shall not permit the opening of the package sold on the premises where sold. Such sale must in each case be completed by delivery of the liquor sold to the actual purchaser thereof on the licensed premises.
11. "On-sale" shall mean the sale of alcoholic beverages for consumption only on the premises where sold, and an on-sale license shall authorized the licensee to conduct such on-sales only at the place designated in such license and not elsewhere.

8.0602 Exceptions

1. This article shall not apply to wines delivered to priests, rabbis and ministers for sacramental use.
2. This article shall not be construed to apply to the following articles, when they are unfit for beverage purposes:
 - a. Denatured alcohol produced and used pursuant to Acts of Congress, and regulations thereunder
 - b. Patent, Proprietary, medical, pharmaceutical, antiseptic and toilet preparations.
 - c. Flavoring, extracts, syrups and food products

8.0603 License Required

No person shall sell at retail within the city limits of this city any alcoholic beverage without first having obtained a license therefore as herein provided. This section shall not apply to public carriers engaged in interstate commerce.

8.0604 License – Class of – Fee

1. Liquor Licenses will be classed as follows:

Class I License: All Combination Off & On Sale Liquor Licenses.
Class II License: All Combination on Sale Liquor & Beer Licenses Only.
Class III License: All on Sale Beer Only License.
Class IV License: All Combination Off Sale Liquor & Beer Licenses.
Class V License: On Sale Liquor & Beer License to be used for scheduled (appointment) events only.
Class VI License: On sale Beer and Wine Only.

2. Hours of operations will be set for each class as follows:

Class I: 8:00 a.m. to 1:00 a.m. on weekdays
8:00 a.m. to 1:00 a.m. Saturday and evenings preceding legal holidays per state statute
12:00 noon to 1:00 a.m. Sundays.
Class II: 11:00 a.m. to 1:00 a.m. on weekdays
11:00 a.m. to 1:00 a.m. Saturday and evenings preceding legal holidays per state statute
12:00 noon to 1:00 a.m. Sundays.
Class III: Same as Class II
Class IV: Same as Class I
Class V: Same as Class II
Class VI: 11:00 a.m. to 1:00 a.m.

3. Legal Holidays as set forth by state law will be days in which all licensed establishments will be closed.

Article 6: Alcoholic Beverages

4. The annual fee for the licenses are:

Class I:	\$ 1,000.00
Class II:	\$ 750.00
Class III:	\$ 500.00
Class IV:	\$ 1000.00
Class V:	\$ 750.00
Class VI:	\$ 500.00

These fees are payable July 1st of each year.

Restrictions:

- Class II: Café must remain open until 9:00 p.m.
- Class V: License cannot be transferred to any other locations

Limited to on sale service of alcoholic beverage to private groups who have rented the facility for social or business use not open to the public at large.

Persons under the age of 21 may be permitted on the grounds provided the area where persons under the age of 21 are permitted is separate from the room where alcoholic beverages are opened or mixed.

Temporary bars may be set up and sale of alcoholic beverages permitted anywhere on the grounds at times when persons under the age of 21 are not permitted.

Liquor license must be sold with the building for which it is now licensed

License can never be operated as a bar or club

License can never be used to hold a concert

- Class VI: Gross sales of alcoholic beverages may not be greater than 40 percent of total gross sales of food and alcoholic beverages. All Class Vi license holders shall file with application for license renewal a statement certifying gross food sales and liquor sales for previous calendar year. The Board of City Commissioners may, in its discretion, require certification of any statement by certified public accountant retained by the licensee. All sales of alcoholic beverages by Class Vi licensee must be separately receipted to the customer by cash register receipt and clearly identified as sales of beer or wine on all receipts.

The license is for on sale only and off sale is not permitted.

Once a license has been established at a particular location, the license may not be transferred to another location.

The licensee may not permit public dances or dancing of any kind.

Beer and wine can only be served with a meal.

Persons under the age of 21 may be permitted on the grounds provided the area where persons under the age of 21 are permitted is separate from the room where alcoholic beverages are opened or mixed.

8.0605 Licenses – No Limit of Number

5. All class types of liquor licenses as outlined in 8.0604 will be made available for application and will be unlimited to the number that can be issued at the discretion of the governing body.
6. All applications for liquor licenses, changes in licenses inquires as to statute of current licenses shall be directed to the City Auditor for processing.
7. All other liquor laws as set forth in the N.D.C.C. are applicable, and should be conflicted be found, the state law will prevail.
8. Sections 10.0605, 10.0606, 10.0611, 10.0616 are herewith repealed.

8.0606 License – Term of

1. All licenses issued hereunder shall be for a period of not more than one (1) year and shall expire on the 30th day of June in each year. Where a license is granted for a period less than one (1) year, any subsequent renewal thereof must be made for the full annual term.
2. If an application is made for license hereunder during the license year for the unexpired portion of such year, the fees for said license shall be proportional to represent the number of whole months which said license will be in effect.

8.0607 License – Qualifications for

No retail license shall be issued to any person unless the applicant shall file a sworn application, accompanied by the required fee, showing the following qualifications:

1. Applicant, if an individual, must be a citizen of the United States, North Dakota and County of McLean or Burleigh and be a person of good moral character.

8.0608 **Application for Liquor License**

Any person desiring a license to sell alcohol beverages at retail as hereinbefore described shall make and present a written verified application to the governing body of this city, filed with the City Auditor, containing the following information:

1. The name and address of the applicant; if the applicant is a co-partnership, the name and address and place of residence of each member of said co-partnership; if the applicant is a corporation, the name and address of other officers of the corporation and the manager of the licensed premises.
2. Whether the applicant is a citizen of the United States, and naturalized citizen, the date and place of naturalization and place of residence of the applicant for a period of one year last preceding the date of application; if the applicant is a co-partnership the same preceding information for each member of said co-partnership; and if the applicant is a corporation, the date of incorporation, the state where incorporated and if such corporation is a subsidiary of any corporation, the name of the parent corporation.
3. The legal description and the address of the premises for which license is sought.
4. The date on which the applicant does not have title to said premises, the name and address of the owner of the premises together with a copy of the applicant's lease, if written, under which he holds possession of said premises.
5. Whether there are any delinquent taxes against the premises sought to be licensed.
6. Whether the applicant has ever engaged in the sale or distribution of alcoholic beverages prior to this application, and if so, the date and type of business and place where so engaged whether within or without the State of North Dakota, the date the applicant first began to operate.
7. Whether the applicant had ever had a license revoked or canceled by a municipal, state or federal authority, and if so, the date of such cancellation, the place and authority canceling the same, and the reason for such cancellation.
8. Whether the applicant has ever been convicted of the violation of any law of the United States or of any state, or of other violation of any local ordinance, with regard to the manufacture, sale, distribution or possession of alcoholic beverage, and if so, the dates, name of place, and courts, in which said convictions were had.
9. Whether the applicant has ever had a license for the sale of alcoholic beverages revoked for any violation of state laws or local ordinances, and if so, the names of the other bodies revoking such license, the dates of such revocation, and the reasons assigned therefore.
10. Whether the applicant has been convicted of any other crime than stated in subsections (8) and (9) hereof, in this state or any other state, or under any federal

law, and if so, the date of such conviction, the name of the crime for which convicted, the amount and terms of the sentence passed, and the court in which convicted.

11. The name and address and the place of residence for a period of one year prior to the date of application of any person who will have charge, management, or control of the establishment for which license is sought.
12. Whether any other person than the applicant has any right, title, estate or interest in the leasehold or in the furniture, fixtures, or equipment in the premises for which license is sought, and if so, the name and address of such person together with a statement of the interest so held.
13. Whether the applicant has any interest whatsoever directly or indirectly, in any other establishment dispensing alcoholic beverage, either at wholesale or retail, within or without the State of North Dakota, and if so, the name and addresses of such establishments. This provision is meant to include the holders of capital stock in any corporation dealing in alcoholic beverages, either at wholesale or retail, and within the boarder of the United States.
14. The occupations which the applicant has followed during the past five years.
15. The names and address of at least three business references.
16. Whether the applicant is rated by any commercial agency, and if so, the name and address of said agency.
17. The classification of license applied for.
18. If the applicant is a lodge or club, the date of organization, the number of members, the purpose of which organized, and the purpose for which profits to be derived from the sale of alcoholic beverages are to be applies; and whenever required by the governing body a list or the members belonging to such lodge or club.
19. A statement by the applicant that he consents to entry and inspection of other premises for which license is sought or any part thereof at any time by any police officer, sheriff or any peace officer of this city or the State of North Dakota.
20. Such other and further information as the governing body may from time to time require.

8.0609 **License – Application Fitness**

The Chief of Police or such other person or officer as may be designated by the governing body shall, upon the filing of an application investigate the facts as stated, in the application and the character, reputation and fitness of the applicant, and shall report on said matters to the governing body.

8.0610 License – Location of

No license shall be issued or transferred to any person, firm or corporation to engage in the sale of beer or alcoholic beverages within the city without approval as to the location of said licensed business by the governing board. The application for approval shall be in writing and filed with the board. At the time of hearing the board shall in its discretion determine if said location is in harmony with the public interest and welfare of the community, and shall consider among other things the following factors:

1. The convenience of police regulations.
2. Public health and sanitation.
3. Proximity of other licensed businesses.
4. Proximity to schools, churches, funeral homes, public buildings or buildings used by or for minors.
5. Any protests of neighboring property owners or occupants.
6. Zoning regulations.
7. Proposed on or off-sale or both licenses.
8. Interference with or proximity to residential property.
9. Interference with neighboring property.
10. Suitability of premises for sale of beer, liquor or alcoholic beverages.
11. Public convenience and necessity.

8.0611 License – Granting*

After the governing body of the city has received the application as provided herein they shall meet and consider the same. If they find that the applicant meets the qualifications for a license and is satisfied as to the completeness and the accuracy of the information contained in the application, they may grant the license. If they find that the applicant does not meet with the qualifications or they are not satisfied as to the completeness or accuracy of the information they may request that the applicant supply more verified information to the governing body or they may reject the application.

8.0612 License – Limit to One Applicant

Not more than one license of each classification shall be issued or granted to any applicant; and each license shall be valid only for specific premises licensed.

8.0613 License – Posting of

License issued hereunder shall be posted in a conspicuous place in the premises for which the license has been issued.

8.0614 License – Transfer of

No License under the provisions of this article shall be transferable and any attempt to do so shall constitute a violation of the provisions of this article.

8.0615 **License Fee – Distribution of**

All license fees collected under this article shall be transferable to the Auditor of this city and credited to the general fund of the city.

8.0616 **Hours and Time of Sale – Penalty***

See 8.0604 – II and III (Hours)

Any person who dispenses or permits the consumption of alcoholic beverages on licensed premises or permits the consumption of alcoholic beverages on licensed premises after one a.m. on Sundays, before eight a.m. on Mondays, or between the hours of one a.m. and eight a.m. on all other days of the week, or who dispenses alcoholic beverages or permits consumption of alcoholic beverages on licensed premises on Christmas Day, after one a.m. on Good Friday or Thanksgiving Day, or after six p.m. on Christmas Eve is guilty of an offense. Any offense is punishable by a fine of up to \$500.00, 30 days imprisonment or both.

8.0617 **Licensee’s Responsibility**

Every licensee is hereby made responsible for the conduct of his place of business and is required to maintain order and sobriety in such place of business, permitting no disorderly conduct on the premises. Alcoholic beverages shall not be served to an intoxicated person, nor shall any intoxicated person be permitted to remain upon the premises.

8.0618 **Gambling Prohibited - Exceptions**

No Licensee hereunder shall be permitted to have or maintain on the licensed premises any gambling device, slot machine, punch board, or any other machine or device of similar nature, nor shall gambling whether by cards, dice or otherwise, of any nature be permitted upon the licensed premises. Any violation of this section shall be sufficient cause for the revocation of the license issued hereunder, and such licensed shall be revoked upon conviction of any such violation. This section shall not apply to gambling or games of chance conducted by a licensee under the authority of a valid and subsisting license issued by the State of North Dakota.

8.0619 **Omitted**

8.0620 **Omitted**

8.0621 **Sales Prohibited - Persons**

No licensee, his agent, or employee shall sell any alcoholic beverages to a person under twenty-one (21) years of age, a habitual drunkard, an incompetent or an intoxicated person.

8.0622 **Minors in Licensed Premises**

No licensee shall permit any person under twenty-one years of age to remain in the licensed premises while alcoholic beverages are being sold or displayed thereon, except that a person

under twenty-one (21) years may remain in a restaurant where alcoholic beverages are being sold if accompanied by a parent or legal guardian.

8.0623 Age Identification

Before selling alcoholic beverages to any persons or before determining whether any person shall remain upon the licensee's premises a licensee, his agent or employee, may require a statement in writing and signed by said person of such person's age. Any person who makes a false statement as to his or her age, or signs a name other than his own or her own to any such statement, shall be guilty of a violation of this article.

8.0624 Street Sale Prohibited

The sale or consumption of alcoholic beverages upon or across any street, alley, or public way is prohibited.

8.0625 Premises, Equipment of

Premises licensed hereunder for on-sale alcoholic beverages shall be equipped with tables, chairs, booths, and stools in a sufficient number to accommodate reasonably the patrons.

8.0626 Closed or Screened Areas

No premises licensed for on-sale alcoholic beverages shall contain any side rooms, closed booths, or other screened enclosures, nor shall any screen, partition, curtain, blinds, or obstruction of any kind prevent a clear view at all times of all parts of the interior of the premises licensed. All booths located in such premises shall open directly into the main part of said premises and shall be accessible from the aisles therein.

8.0627 Purchase from Licensed Wholesaler

No licensee hereunder shall purchase, have or possess any alcoholic beverages other than those purchased from a wholesaler duly licensed by the State of North Dakota pursuant to the provisions of Title V of the North Dakota Century Code; and each licensee hereunder shall keep on file all invoices covering purchases by him of such alcoholic beverages showing the name and license number of the wholesaler, and such records shall be retained in the possession of the licensee and shall be at all times open to inspection by any police officer or peace officer of the State of North Dakota.

8.0628 Toilet Required

That the premises where on-sale license is granted must be equipped with adequate and sufficient lavatories and toilets, separately maintained for men and women, and kept in a clean and sanitary condition. The on-sale license may be revoked when the foregoing requirements, or any other health ordinance or regulation, is not, at all times strictly observed.

8.0629 Deliveries – Off Licensed Premises

1. It shall be unlawful for any person, firm or corporation engaged in retail sale of liquor, beer or alcoholic beverages to make, or cause to be made any deliveries outside of the licensed place of business of beer, liquor or other alcoholic beverages to any purchaser or prospective purchaser.
2. It shall be unlawful for any person, firm, or corporation to deliver by foot, carrier or motor carrier, any beer, liquor or alcoholic beverage to any person within the city limits provided however, that this section shall not apply to deliveries made by a licensed wholesaler dealer to a licensed retail dealer.
3. Where any retail alcoholic beverage or beer licensee is a club or lodge, such licensee shall sell to members only,

8.0630 Termination of Revocation of License

1. Licenses issued pursuant to this article shall be deemed cancelled and revoked and terminated upon the happening of any one or more of the following contingencies:
 - a. The death of the licensee unless upon application to the governing body by personal representative of the decedent, the governing body shall consent to the carrying on of the business by the personal representative.
 - b. When the licensee ceases business at the location licenses, unless a new location has been approved.
 - c. When the licensee be adjudged bankrupt.
 - d. When the licensee has been convicted of the other violation of any provision of this article, or of the laws of the State of North Dakota pertaining to alcoholic beverages, or of a felony under the laws of the United States, the State of North Dakota, or of any other state of the United States.
 - e. When the licensee ceases to possess the qualifications required of an applicant for a license as set out in this article.
 - f. When the license or permit of other licenses from the United States Government or the state of North Dakota to sell alcoholic beverages at the location licensed as been terminated or been revoked.
 - g. When the licensee ceases to be legal bona fide resident and citizen of the State of North Dakota, or cease to be a legal bona fide resident of the County of McLean or Burleigh.
2. License issued pursuant to this ordinance may, in the discretion of the governing body, be either revoked or suspended for such period of time as deemed appropriated, upon the following grounds:
 - a. When the licensee has been convicted of violating any of the provisions of this article.
 - b. When the business of the licensee at the location licensed shall be conducted in violation of health or sanitary regulations or other ordinances of the city.
 - c. When the licensee, if individual, or one of the partners, if the licensee be a partnership, or one of the officers or the manager if the licensee be a corporation, be convicted in the municipal court of other city of drunkenness or disorderly

conduct, or if any appeal be taken from such conviction then when such conviction be sustained by the higher court or courts.

3. Such cases as are hereinbefore detailed shall be deemed to be exclusive and such license may also be canceled and revoked or suspended at any time by the governing body to be sufficient cause and justified by reason of public health or public morals. Such termination shall be subject only to review by the courts of other State of North Dakota.
4. When any license is terminated or revoked for cause, or the licensee voluntarily ceases his business, no portion of the license fee previously paid shall be returned to the licensee or to anyone claiming under or through him.

8.0631 **Penalties**

Any person, firm, corporation or association violating any of the provisions of this article shall upon conviction thereof, be subject to a fine of not to exceed Five Hundred and No/100 Dollars (\$500.00), or to imprisonment of not to exceed thirty (30) days; or in the discretion of other court to both such fine and imprisonment; and in addition to both such fine and imprisonment all power, right, and privileges given by any license granted under the terms of this article may be terminated or revoked in accordance with section 8.0629 of this article.

(* See Appendix)

8.0701 **License Required**

No person, firm, association or corporation shall exhibit or cause to be exhibited or assist in exhibiting any natural or article curiosity or conduct a circus, menagerie, tent show, carnival, or carnival show, continuous theatrical performance, shooting gallery, or other like exhibition without first obtaining license from the city.

8.0702 **Fee For**

The fees to secure license to conduct the exhibitions mentioned in the foregoing section shall be as follows:

Any carnival, per day.....\$-0-
Any circus, per day.....\$-0-

In addition to the above fee any carnival or circus granted a license shall deposit with the City Auditor cash bonds in the amount of _____ guaranteeing that premises upon which such carnival or circus is located shall be cleaned after the showing of such carnival or circus to the satisfaction of the City Engineer and upon certification of the City Engineer to the City Auditor or if the city has no City Engineer upon determination of the City Auditor that the same has been done said cash deposit shall be returned to licensee. Provided, further, that in addition to such fees, an additional fee in the amount from \$_____ to \$_____ be fixed by the governing body shall be paid at the time of obtaining license to provide for fire and police protection and additional policing in connection with the showing of such carnival or circus.

8.0801 **License Required**

If any section, part , article or provision of this chapter or the application thereof to any person, firm, corporation, or association, or to any circumstances, shall be held to be invalid for any cause whatsoever, the remainder of this ordinance or the application to persons, firms, corporation, or circumstances other than those as to which it is held to be invalid, shall not be affected thereby, and shall remain in full force and effect as though no part thereof had been declared to be invalid.

8.0901 **Penalty**

Any person, firm, corporation, or association violating any of the terms, article, or provisions of this chapter, for which a specific penalty is not prescribed, shall upon conviction thereof, be punished by a fine not to exceed Five Hundred and No/100 Dollars (\$500.00), or by imprisonment not to exceed thirty (30) days, or by both such fine and imprisonment in the discretion of the court. The court shall have the power to suspend such sentence and to revoke the suspension thereof. The court may, in addition thereto, revoke the permit of such violator, or terminate or revoke all power, rights and privileges given by any license granted under the terms of this chapter. Each day or part thereof that a person shall be in violation of the provisions of this chapter shall be considered a separate violation thereof.

AN ORDINANCE TO AMEND AND ADD ARTICLE 10.0633 TO CHAPTER 10 RELATING TO A CABARET LICENSE AND LIMITATIONS ON ENTERTAINMENT IN LICENSED PREMISES AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF:

Be it ordained by the Board of City Commissioners of the City of Wilton, North Dakota:

Article 10.0633 CABARET LICENSE

1. Definitions

- a. Entertainment – shall be defined for purposes of this Ordinance to mean all forms and types of performing or entertaining for patrons on licensed premises without regards as to whether such entertainment is provided by means of live performance or manually operated, electronic system designed for stereophonic playback or prerecorded signals: provided, however, that entertainment shall not be deemed to include the use of any televisions, radio or coin operated music machine.
 - b. Live performance – shall be defined for the purpose of this Ordinance to mean any person who for consideration, monetary or otherwise, performs in person on a licensed premise as a singer, musician, dancer, comedian, model, or any other type of entertainer.
2. No license under this Chapter shall permit entertainment for more than one day a week any given week without first having obtained a cabaret license as hereinafter provided.
 3. The license fee set cabaret license shall be \$1.00 per year.
 4. The license fee set forth in subsection 3 of this Section shall be for a period of one year from July 1 to June 30 and shall be payable in advance at the time of the issuance of the license and thereafter, on or before June 10 of each subsequent year for renewal of said license.
 5. The application for cabaret license shall be made by the licensee on forms provided by the City Auditor's Office of the City of Wilton. The granting of a cabaret license shall be subject to the approval of the commission and it may be suspended or revoked in the conformance with procedures established under Article 10.0631.
 6. No live performances are permitted on a licenses premise which contains any form of dancing. Such prohibition on dancing does not include the incidental movement or choreography of singers or musician which are made in connection with their singing or playing of a musical instrument. This restriction applies to all licensed premises whether or not they have a cabaret license.
 7. No live performances are permitted on a licensed premise which involve the removal of clothing garments or any other costume. Such prohibition does not include the removal of headwear or footwear; or the incidental removal for purposes of his section shall mean the removal of a garment or article of clothing which is not a part of the act or performance. This restriction applies to all licensed premises whether or not they have a license.

8. No entertainment on a licensed premise shall contain:
 - a. The performances of acts, or simulated acts, of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law;
 - b. The actual or simulated touching, caressing or fondling of the breast, buttocks, anus or genitals;
 - c. The actual or simulated displaying of the pubic hair, anus, vulva, or genitals; or the nipples of a female.

This restriction applies to all licensed premises whether or not they have a cabaret license.

9. A licensee shall have the duty and responsibility to make available for inspection by a member of the Mclean County Sheriff's Department an identification card, such as a driver's license, containing a photograph and the age of all entertainers or performers on the licensed premise. The licensee shall not permit a person to make a live performance on the licensed premise if the licensee is not able to obtain the required identification from the performer.
10. If a section, subsection, sentence or clause of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of the ordinance.
11. Penalty. Any person found guilty of violating any of the provisions of this ordinance shall be punished by a fine of not more than \$500.00 or by imprisonment for not to exceed 30 days or both, such fine and imprisonment in the discretion of the court.
12. Effective Date. This ordinance shall be in full force and effect from and after its final passage and publication

AN ORDINANCE TO ENACT A ZONING CLASSIFICATION PERTAINING TO REGULATION AND DEFINING ADULT ENTERTAINMENT CENTER.

Be it ordained by the board of City Commissioners of the City of Wilton, North Dakota.

Section 1.

Amendment. The Zoning Ordinance of the City of Wilton, is hereby amended by the addition thereto of the following definitions

Adult Bookstore

An enclosed building having as a substantial or significant portion of its stock in trade, books, magazines, or other periodical which are distinguished or characterized by the emphasis on matter depicting or describing specified sexual activities or specified anatomical areas.

Adult Cinema

An enclosed building used on a regular basis for presenting pictorial materials or other visual images by the way of direct or indirect projection, which materials are distinguished or characterized by the emphasis on the depiction of specified sexual activities or specified anatomical areas for observation by patrons therein in return for payment of a consideration, irrespective of the number of patrons who may be able to view the presentation at one time.

Adult Entertainment Center. An adult bookstore or adult cinema or both
Specified Anatomical Areas:

- a. Less than completely and opaquely covered
 1. Human genitals, pubic regions;
 2. Buttocks;
 3. Female breast below a point immediately above the top of the areola; and
- b. Human male genitals in the discernibly turgid state, even if completely or opaquely covered

Specified Sexual Activities:

- a. Human genitals in a state of sexual simulations or arousal;
- b. Acts of human masturbation, sexual intercourse or sodomy;
- c. Fondling of human genitals pubic region, buttocks or female breasts.

Section 3.4

The Zoning Ordinance of the City of Wilton, North Dakota, as amended is hereby amended by adding Item (13) Adult Entertainment Center.

(13) Adult Entertainment Center:

Notwithstanding anything in this zoning ordinance to the contrary, an adult entertainment center shall be permitted only in an "industrial" district and in no other district, providing the center meet the following conditions:

Adult Entertainment

- a. The center is located no closer than 1,500 feet from any preexisting church, school, recreational or residentially zoned property and/or property used for residential purposes;
- b. The center excludes from its premises those persons less than 18 years of age;
- c. The center displays no signs visible from the exterior of the center except signs identifying the center as an adult bookstore or adult cinema or both;
- d. No materials depicting specified sexual activities or specified anatomical areas shall be visible from the exterior of the centers;
- e. The manager and the owners of the center are registered with the Chief of Police and have provided him with such information as he reasonably may require with respect to their identities, including fingerprints, and prior criminal records, if any;
- f. The business premises of the center which are generally open to its patrons are open equally at the same time without charge to members of the city of police force who may wish to enter thereon provided the entry is in the course of discharge of the policeman's duties;
- g. The business premises of the center which are general open to its patrons shall be closed to its patrons from 1:00 a.m. to 8:00 a.m. daily except on Sundays 12:01 a.m. to 8:00 a.m. the following day;
- h. The center is licensed by the City.

Section 3

Taking Effect. This ordinance shall be in full force and effect from and after its final passage and adoption.

Section 4

Severability. The provision in the ordinance are severable and if any of the provisions, sentence, clause or paragraph shall be held unconstitutional, contrary to statute, exceeding the authority of the city or otherwise illegal or inoperative by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions, unless the court should conclude that the partial invalidation would frustrate the intent of this ordinance.

AN ORDINANCE OF THE CITY OF WILTON, NORTH DAKOTA PERTAINING TO LICENSING
ADULT ENTERTAINMENT CENTERS AND ASSOCIATED MECHANICAL AMUSEMENT
DEVICES

Be it ordained by the Board of City Commissioners of the City of Wilton, North Dakota:

Section 1. – Legislative Intent and Purpose

The purpose of this ordinance is to recognize and provide for the fact that the operations of mechanical amusement devices which depict or display specified sexual activities or specified anatomical areas results in increased enforcement problems for the city and additional expense to the city that justifies a higher license fee for these devices than for other mechanical amusement devices. This follows because it is not immediately possible to distinguish between constitutionally protected non-obscene depicting or portrayals of explicit sexual conduct, on one hand, from non-constitutionally protected obscene portrayals of sexual conduct on the other hand. This necessitates greater police vigilance to assure that the lawful business of displaying non-obscene portrayals or depictions of sexual conduct in not use inadvertently or by design as the means of unlawfully displaying or depicting obscenity. In order to recoup some of the costs thus imposed on the city it is appropriate that there be imposed on the persons who profit from such devices some of the costs of insuring that the devices are used only lawfully.

Section 2. – The Fees Shall Include the Following

Adult Entertainment Center as defined in Ordinance No. 2-82 of the City of Wilton, North Dakota, as follows:

1. Each entertainment center - \$6,000.00
2. Each mechanical amusement device used on a regular basis to depict or display specified anatomical areas or specified sexual activities - \$1,500.00
 - a. The terms specified anatomical areas and specified sexual activities as herein are defined in Ordinance No. 2-82 of the City of Wilton, North Dakota, as amended;
 - b. The owner of the mechanical amusement device shall furnish a complete list of all devices owned or operated subject to licensing with an indication thereon of the location of each machine and a list of all films used and date of any film replacement during the licensing period;
 - c. A “mechanical amusement device” is a machine which, upon insertion of a coin or the payment of consideration, operates or may be operated for use as a game, contest, or amusement of any description, one which depicts, displays, or projects directly or indirectly, pictures, photographs or other visual images;
 - d. The fees provided for herein shall be payable on July 1 of each year. No fees shall be pro-rated.

Section 3. – Taking Effect

This ordinance shall be in full force and effect from and after its final passage and adoption.